

IP 05-1782-C H/K Ray v State Farm [3]
Judge David F. Hamilton

Signed on 01/16/08

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

Karen C. Ray,)	
)	
Plaintiff,)	
vs.)	NO. 1:05-cv-01782-DFH-TAB
)	
STATE FARM MUTUAL AUTOMOBILE)	
INSURANCE COMPANY,)	
)	
Defendant.)	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

KAREN C. RAY,)	
)	
Plaintiff,)	
)	
v.)	
)	CASE NO. 1:05-cv-1782-DFH-TAB
STATE FARM MUTUAL AUTOMOBILE)	
INSURANCE COMPANY,)	
)	
Defendant.)	

ENTRY ON PLAINTIFF'S APPEAL FROM ORDER OF MAGISTRATE JUDGE

Plaintiff Karen C. Ray has appealed from United States Magistrate Judge Tim A. Baker's order on plaintiff's motion to compel. The court denies her appeal and affirms the challenged rulings.

Ray sued defendant State Farm Mutual Automobile Insurance Company, alleging that State Farm engaged in bad faith by failing to pay or to offer to pay for the diminished value to her vehicle when it adjusted her claim for uninsured motorist property damage sustained in June 2004.¹ See generally *Dunn v. Meridian Mutual Ins. Co.*, 836 N.E.2d 249 (Ind. 2005). Ray has filed this case as a class action in which she would represent herself and all others similarly

¹Ray also brought a breach of contract claim against State Farm but that claim was dismissed by the court's entry of November 28, 2006.

situated in the state of Indiana. No class has been certified. At the outset of discovery, Ray served State Farm with numerous document requests and notice of a Rule 30(b)(6) deposition. To the extent that those discovery requests concerned State Farm's practices, procedures, and policies in states other than Indiana, State Farm objected, arguing that the requests were overly broad, not relevant to Ray's claims, and unduly burdensome. Ray moved to compel production by State Farm. Magistrate Judge Baker denied Ray's motion, ruling that the discovery Ray sought was irrelevant and thus outside the bounds of Federal Rule of Civil Procedure 26.

Pursuant to 28 U.S.C. § 636(b)(1)(A), a district judge may designate a magistrate judge to hear and determine a discovery dispute such as the motion to compel. A pretrial matter decided by a magistrate judge may be reconsidered by a district judge "where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law." *Id.*; see also Fed. R. Civ. P. 72(a). This "clearly erroneous" standard of review "means that the district court can overturn the magistrate judge's ruling only if the district court is left with the definite and firm conviction that a mistake has been made." *Weeks v. Samsung Heavy Indus. Co.*, 126 F.3d 926, 943 (7th Cir. 1997).

The bounds of discovery under the Federal Rules of Civil Procedure are set by Rule 26(b)(1), which states that "parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense

Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” As Ray contended in her motion to compel, permissible discovery under Rule 26 is broad. State Farm has produced nearly 10,000 pages of documents in the course of discovery without undue controversy, but those documents and other discovery responses do not relate to State Farm’s practices outside of Indiana. Mot. to Compel at 6-8.

Before the magistrate judge, Ray made two arguments to support her contention that State Farm’s procedures and policies regarding computation of diminished value claims in other states are relevant to her Indiana bad faith claim. First, Ray contended that the legal basis for diminished value claims is not important to her bad faith allegation, but that the manner and methodology State Farm uses to adjust such claims – in other words, the factual basis – is vital to her claim. Reply in Support of Mot. to Compel at 2. Second, Ray asserted that although State Farm’s obligation to pay diminished value claims in Indiana was established long before the Indiana Supreme Court’s decision in *Dunn v. Meridian Mutual Ins. Co.*, 836 N.E.2d 249 (Ind. 2005), State Farm failed to produce documents to demonstrate that State Farm established practices in Indiana comparable to the practices it established in other states regarding diminished value. Mot. to Compel at 6-7; Reply in Support of Mot. to Compel at 2. Apparently, Ray believes that this comparative lack of Indiana documentation tends to support her bad faith claim. The magistrate judge rejected these

arguments, holding that Ray's bad faith claim will be determined under State Farm's obligations under Ray's Indiana policy and according to Indiana law, irrespective of what State Farm's obligations and practices may have been in other states. Accordingly, the magistrate judge denied Ray's motion to compel.

Ray has not demonstrated clear error. This court agrees with the magistrate judge that Ray has not overcome the focus of her own claim: namely, that State Farm committed the tort of bad faith under *Indiana* law, perhaps to the detriment of a prospective class of *Indiana* plaintiffs. Ray suggests that State Farm may claim in opposition to class certification that the determination of diminished value is a highly individualized process that cuts against class treatment. She asserts that information from other states where State Farm "routinely pays diminished value damages to thousands of insured[s] every year – should shed light on this issue." Objection to Magistrate's Order at 2-3. If State Farm actually makes that argument, it might be appropriate to allow some limited discovery that might rebut it. For now, however, the mere possibility of such an argument would not justify the requested 50-state search. See Fed. R. Civ. P. 26(b)(2)(C)(iii). The magistrate judge's decision was not clearly erroneous.

For the foregoing reasons, the magistrate judge's order on plaintiff's motion to compel is affirmed.

Date: January 16, 2008

DAVID F. HAMILTON, CHIEF JUDGE
United States District Court
Southern District of Indiana

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